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85-1016

# United States Senate

SELECT COMMITTEE ON INTELLIGENCE  
WASHINGTON, DC 20510

ROBERT DOLE, KANSAS, EX OFFICIO  
ROBERT C. BYRD, WEST VIRGINIA, EX OFFICIO

March 14, 1985

To	Rec'd	Due
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Coord with		
Sign		
Approved		
Info to		
A, EG		

Mr. Steven Garfinkel  
Director  
Information Security Oversight Office  
General Services Administration  
Washington, D.C. 20405

Dear Mr. Garfinkel:

Mrs. Bethine Church, the widow of Senator Frank Church, has referred to me your correspondence of last September with Mr. Timothy A. Brown, the University Librarian of Boise State University. You requested access to the papers of Senator Church for Executive branch officials, in order to determine if the collection contains any classified information.

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Prior to my becoming Vice Chairman of the Select Committee on Intelligence, Committee staff were also referred a note from [redacted] Director of Information Services of the Central Intelligence Agency. According to this note, it was actually officials of the CIA who contacted you to request this action, although these officials professed that other federal agencies also might have "equities" in the information contained in the papers.

As you know, the President has asserted the privilege, in Executive Order No. 12356 on National Security Information (paragraph 1.6[c]), to "reclassify" information already released, provided the information "may reasonably be recovered." On March 10, 1982, this Committee recommended to you that ISOO's Implementing Directive under the Executive Order should provide for "limitation of reclassification ... ordinarily to cases of mistaken disclosure of information that is voluntarily returned, with exceptions only for the gravest danger to national security." In response to questions by Members of the Committee, including Senator Durenberger and myself, dated February 26, 1982, you committed your Office to "recommend inclusion of language in the ... Implementing Directive which will ordinarily limit the applicability of this provision to situations in which the information can be retrieved voluntarily."

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Even if Senator Church had been an official in the Executive branch, the current circumstances would, I believe, be inappropriate for the Administration to seek such review of his papers. My staff has examined about thirty pages of written contents to the numerous boxes of records included in the Frank Church collection. There is no indication in these lists of contents, aside from the barest of entries concerning "the CIA," "Vietnam," "foreign policy," or the like, that there is any significant probability that the relevant records might contain classified information. Indeed, for the most part such entries appear to refer to such inherently unclassified material as public statements, press clippings, and constituent correspondence.

Furthermore, the University Librarian, in his letter of reply to you, indicated that spot checks had been run on the collection, as well as partial reviews in preparation for allowing researchers to use the collection. The Librarian and his staff found no classified documents during these reviews. Furthermore, the Librarian has indicated that he will (as any professional librarian would do as a matter of course) see to it that any materials to be made available to researchers are thoroughly reviewed by Library staff first; the Library staff will be alerted to the need to protect classified material.

Further, as you are no doubt aware, the deed of gift from Senator Church dated March 7, 1984 requires the Librarian to limit access to papers in the collection in accordance with "the procedures established by law or executive order governing the availability of such information." There is every indication that the University Librarian intends to take these responsibilities seriously.

Numerous government officials, from the lowest to the highest, who have had access to classified material, including intelligence information, have left public life without having their papers reviewed for the presence of classified information. Indeed, in well-known cases, senior Executive branch officials have left government service taking their "personal" files with them -- without any review even at the time of separation. I am nevertheless not aware of any other case in which the Administration has proposed to review the papers of a former public figure for classified material.


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Frank Church was, furthermore, a United States Senator. The Senate, through its Standing Rules and the rules of its Committees, has an independent right to determine the classification of national security information, including intelligence information. The Senate Office of Classified National Security Information was established in part for this purpose. The Select Committee on Intelligence, which succeeded Senator Church's investigative committee and holds its papers, is entitled under Senate Resolution No. 400 (1976) to make independent decision concerning release of classified information including intelligence information, subject to final determination by the Senate in case of Presidential appeal from the Committee's decision.

It should also be realized that the Senate committees with which Frank Church worked have their own security systems which provide for careful document control. I am personally familiar with the procedures employed by the Select Committee on Intelligence, which were originally developed by the investigative committee chaired by Senator Church. These procedures provide for centralized control of classified documents and do not permit storage of classified material in the Members' offices. (The Select Committee on Intelligence in fact holds a large volume of files from Church Committee days.) His colleagues, congressional staff and others who knew Senator Church indicate that he was extremely conscientious in these matters and did not retain classified information in his Senate office. While Chairman of his investigative committee, he was furthermore advised on these matters by a full-time Security Director and other security staff.

For the reasons above, I believe it would be inappropriate to have Executive branch personnel review the papers of Frank Church. The papers of this great United States Senator and great American should not be subjected to such an extraordinary procedure, which to my knowledge has never been applied to another figure of equal stature in our public life. I hope, therefore, that you will advise relevant Executive branch officials that you recommend against taking any further action on their request that these documents be opened for their review.

Sincerely,

  
 PATRICK LEAHY  
 Vice Chairman